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SEP 11 2006

NOT FOR PUBLICATION

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

IRWIN A. SCHIFF,

Defendant - Appellant.

No. 05-15233

D.C. No. CV-01-00895-PMP

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Submitted March 8, 2006^{**}
+Memorandum Withdrawn March 31, 2006
+Filed August 31, 2006

Before: CANBY, BEEZER, and KOZINSKI, Circuit Judges.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Irwin A. Schiff appeals pro se from the district court's summary judgment in favor of the government in its action seeking to reduce to judgment income tax, penalty, and interest assessments for tax years 1979-1985. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Hansen v. United States*, 7 F.3d 137, 138 (9th Cir. 1993) (per curiam), and we affirm.

Schiff filed no tax return for 1979. For 1980-1985, Schiff filed returns reporting zero income and zero tax due, and requesting refunds for the amounts withheld by his employers from his wages. On each return, he also included a statement contending that his income was not taxable.

Schiff's contention that his wages do not constitute income under the tax code has been rejected by this court. *See Maisano v. United States*, 908 F.2d 408, 409 (9th Cir. 1990) (per curiam).

The record supports the assessment of penalties pursuant to former 26 U.S.C. § 6653(b) and current 26 U.S.C. §§ 6654 and 6673(a).

Because Schiff was convicted of criminal tax fraud for all pertinent years, he is estopped from denying liability for civil tax fraud for those same years. *See* 26 U.S.C. § 7201.

Schiff's remaining contentions lack merit.

The government's motion for sanctions in the amount of \$6,000 is granted. Accordingly, the clerk is directed to enter a judgment for \$6,000 against Schiff as sanctions.

We deny all other pending motions.

AFFIRMED.